



Suzanne Henderson

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**OIL AND GAS LEASE
(No Surface Operations)
(Paid-Up Lease)**

THE STATE OF TEXAS

COUNTY OF TARRANT

This Oil and Gas Lease (this "Lease") is made on September 4, 2009, between **Arlington Cooperative Montessori School, Inc. d/b/a The Montessori Academy** (hereafter called "Lessor"), whose address is 3428 West Arkansas Lane, Arlington , Texas 76016-5831, and **XTO Energy Inc.** (hereafter called "Lessee"), a Delaware corporation, whose address is 810 Houston Street, Fort Worth, Texas 76102.

1. **Grant.** In consideration of \$10.00 in hand paid and other good and valuable consideration, Lessor grants (without warranty of any kind or character, either express or implied) and leases exclusively unto Lessee the land described on attached Exhibit A (the "Land") for the purpose of exploring, drilling and producing oil, gas and other products manufactured from oil and gas produced therefrom in Tarrant County, Texas.

This Lease also covers and includes all land owned or claimed by Lessor adjacent or contiguous to the Land, whether the same be in said survey or surveys or in adjacent surveys, although not included within the boundaries of the land particularly described above. If any additional acreage is included in this Lease pursuant to the foregoing sentence, then bonus shall be calculated and paid as to such additional acreage on the same terms as it is calculated and paid for the land specifically described above.

2. **Primary Term.** Subject to the other provisions herein contained, this Lease is for a term of two (2) years from this date (called "Primary Term") and for so long thereafter as oil or gas is produced from the Land, or lands or leases pooled therewith, in paying quantities.

3. **Minerals Covered.** Notwithstanding any other provision hereof, this Lease covers only oil and gas. The term "oil and gas" means oil, gas, and other liquid and gaseous hydrocarbons and their constituent elements produced through a well bore. Lignite, coal sulfur and other like minerals are expressly excluded from this Lease.

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4. Royalty.

(a) As royalties, Lessee agrees:

(1) To deliver free of cost to Lessor at the well(s) or to the credit of Lessor at the pipeline to which the well(s) may be connected, 25 % (the "Royalty Percentage") of all oil and other liquid hydrocarbons produced and saved from the Land. At Lessor's option, which may be exercised from time to time and, which initially shall be assumed as exercised by Lessor unless Lessor notifies Lessee in writing otherwise, Lessee shall pay to Lessor the same part of the market value at the well of oil and other liquid hydrocarbons of like grade and gravity prevailing on the day the oil and other hydrocarbons are sold from the Lease in the general area in which the Land is located.

(2) To pay to Lessor:

(i) On gas produced from the Land and sold by Lessee or used off the Land and to which the following subparagraphs (ii) and (iii) do not apply, the Royalty Percentage of the market value at the well, subject to the other provisions herein.

(ii) On gas produced from the Land that is processed in a processing plant in which Lessee or an affiliate of Lessee has a direct or indirect interest, the higher of the Royalty Percentage of the market value of the gas at the inlet to the processing plant, or the Royalty Percentage of the market value of all processed liquids saved from the gas at the plant plus the Royalty Percentage of the market value of all residue gas at the outlet of the plant.

(iii) On gas produced from the Land that is processed in facilities other than a processing plant in which Lessee or an affiliate of Lessee has a direct or indirect interest, the Royalty Percentage of the market value at the plant of all processed liquids credited to the account of Lessee and attributable to the gas plus the Royalty Percentage of the market value of all residue gas at the outlet of the plant.

(b) The market value of gas will be determined at the specified location by reference to the gross heating value (measured in British thermal units) and quality of the gas. The market value used in the calculation of oil and gas royalty will never be less than the total proceeds received by Lessee in connection with the sale, use, or other disposition the oil or gas produced or sold. For purposes of this paragraph, if Lessee receives from a purchaser of oil or gas any reimbursement for all or any part of severance or production taxes, or if Lessee realizes proceeds of production after deduction for any expense of production, gathering, dehydration, separation, compression, transportation, treatment, processing, storage, or marketing, then the reimbursement or the deductions will be added to the total proceeds received by Lessee, except as set forth in (c) below.

(c) Lessor's royalty shall be calculated free and clear of costs and expenses for exploration, drilling, development and production, including, but not limited to, dehydration, storage,

compression, separation by mechanical means and product stabilization, incurred prior to the oil, gas and other mineral production leaving the Land or prior to delivery into a pipeline or gathering system, whichever occurs first; provided, however, (a) Lessee shall have free use of produced oil and gas for operations conducted on the Land or lands pooled therewith, and the royalties on oil and gas herein provided shall be computed after deducting any so used, and (b) Lessor's royalty shall bear its proportionate share of all ad valorem taxes and production, severance and other taxes and the actual, reasonable costs (including compression and related fuel charges) paid to or deducted by an unaffiliated third party to transport, compress, stabilize, process or treat the oil, gas and other mineral production off the Land in order to make the oil, gas and other mineral production saleable, increase its value or in order to get the oil, gas and other mineral production to a market. It is the intent of the parties that the provisions of this section are to be fully effective and enforceable and are not to be construed as "surplusage" under the principles set forth in *Heritage Resources v. NationsBank*, 939 S.W.2d 118 (Tex. 1997).

(d) Lessor shall be paid the Royalty Percentage of all payments and other benefits made under any oil or gas sales contract or other arrangement, including take-or-pay payments and payments received in settlement of disputes; provided that if Lessor receives a take-or-pay payment or similar payment for gas that has not been produced, and if the gas purchaser "makes-up" such gas and Lessee is required to give such purchaser a credit for gas previously paid for but not taken, then Lessor will only receive its Royalty Percentage of any payments made by the gas purchaser for such make-up gas taken pursuant to the take-or-pay provision or similar provision.

(e) If gas produced from the Land is sold by Lessee pursuant to an arms-length contract with a purchaser that is not an affiliate of Lessee, and for a term no longer than that which is usual and customary in the industry at the time the contract is made, then the market value of the gas sold pursuant to the contract shall be the total proceeds received by Lessee in the sale, subject to the provisions of paragraphs 4(b) and (c) above.

(f) As used in this Lease, "affiliate" means (i) a corporation, joint venture, partnership, or other entity that owns more than twenty percent of the outstanding voting interest of Lessee or in which Lessee owns more than twenty percent of the outstanding voting interest; or (ii) a corporation, joint venture, partnership, or other entity in which, together with Lessee, more than twenty percent of the outstanding voting interests of both Lessee and the other corporation, joint venture, partnership, or other entity is owned or controlled by the same persons or group of persons.

(g) Unless there is a reasonable title dispute or question as to title, Lessee must disburse or cause to be disbursed to Lessor its royalty on production from a particular well not later than one hundred twenty (120) days after the end of the month of first sales of production. Thereafter, Lessee must disburse or cause to be disbursed to Lessor its royalty on production by the last day of the second month after the month in which production is sold. If not paid when due, Lessor's royalty will bear interest at the statutory rate from due date until paid, which amount Lessee agrees to pay.

(h) Acceptance by Lessor of royalties that are past due will not act as a waiver or estoppel of its right to receive interest due thereon unless Lessor expressly so provides in writing signed by Lessor. The royalty payment obligations under this Lease shall not be affected by any division order or the provisions of Section 91.402 of the Texas Natural Resources Code or any similar statute.

(i) The receipt by Lessee or Lessee's operator from a purchaser or a pipeline company of proceeds of production for distribution to Lessor will not result in Lessee acquiring legal or equitable title to Lessor's share of those proceeds, but Lessee and Lessee's operator will at all times hold Lessor's share of those proceeds for the benefit of Lessor. Notwithstanding the insolvency, bankruptcy, or other business failure of a purchaser of production from the Land or pipeline company transporting production from the Land, Lessee will remain liable for payment to Lessor for, and agrees to pay Lessor all royalties due Lessor together with interest if not timely paid. Lessor obtains the right to terminate this Lease for failure to pay royalties after a period of written notice and opportunity to cure which shall not exceed sixty (60) days.

Gas produced from the Land or pooled unit that the Land is included therewith shall not be commingled with gas produced from any other lands prior to the point where the gas produced from this Lease passes through the meter which will measure the gas for calculating the payment made by the purchaser of gas production

Similarly, on oil, gas and other substances produced and saved hereunder which are sold to Lessee, or an affiliate of Lessee, royalties shall be paid based upon the higher of the market value of the products so sold and the proceeds received by Lessee for said products. In no event shall Lessor receive a price less than Lessee in sales to nonaffiliates.

5. **Shut-in Royalty.** After the Primary Term, if there is a gas well on this Lease that is capable of producing in paying quantities, but gas is not being sold for a period of sixty (60) consecutive days, and this Lease is not otherwise being maintained, Lessee shall pay or tender an annual shut-in royalty of \$ 5000.00 for each well from which gas is not being sold for such period. Payment with respect to such well will be due within ninety (90) days after the later of (i) the date the well is shut-in, or (ii) the date this Lease is not otherwise being maintained. Thereafter, while such well remains shut-in, Lessee shall make shut-in payments in the same amount at annual intervals on or before the anniversary of the date the first payment is due. While any such well is shut-in, this Lease shall be considered as producing in paying quantities for all purposes of this Lease. At the option of Lessee, which may be exercised by Lessee giving notice to Lessor, a well which has been drilled and Lessee intends to frac shall be deemed a well capable of producing in paying quantities and the date such the well is shut-in shall be when the drilling operations are completed. It is expressly agreed and understood that Lessee shall have no right to maintain this lease in force after the expiration of the primary term hereof by payment of shut-in gas royalty for any period exceeding twenty-four (24) consecutive months, or an aggregate of non consecutive periods totaling five (5) years. The payment or tender of royalty under this paragraph may be made by the check of Lessee mailed or delivered to the parties entitled thereto on or before the due date.

6. Operations, Development, and Cessation of Production.

(a) If, at the expiration of the Primary Term, oil or gas is not being produced from the Land, but Lessee has commenced operations for the drilling of a well on the Land or land pooled therewith, the Lease will not terminate but will remain in effect for so long thereafter as operations are carried out with no cessation of more than sixty consecutive (60) days, and if the operations result in the production of oil or gas, the Lease shall remain in force as otherwise provided herein. For the purposes of this Lease, the term "operations" means operations for any of the following: drilling, testing, completing, fracing, reworking, recompleting, deepening, plugging back, or repairing of a well in search of or in the endeavor to obtain, maintain, re-establish or enhance production of oil or gas with no cessation of more than sixty (60) consecutive days.

(b) If, at the expiration of the Primary Term, Lessee is engaged in operations as defined above or shall have completed a well (as a dry hole or a well capable of producing) on Land or land pooled therewith within ninety (90) days prior to the end of the Primary Term, this Lease will remain in force as to all acreage and depths as long as there is no lapse of more than sixty (60) days between the completion of one well and the commencement of the actual drilling of another well. The commencement of actual drilling means the penetration of the surface with a drilling rig capable of drilling to the anticipated total depth of the well. After a well is commenced, drilling operations must continue with diligence and in a good and workmanlike manner in a good faith effort to reach the anticipated total depth with no cessation of operations for more than ninety (90) consecutive days. A well will be deemed to have been completed on the date of the release of the drilling rig from the drill site, or such rig commences to drill another hole from the same drill site, or such rig is moved from one spot to another spot on the same drill site, if the well is a dry hole, or on the date of completing the official Railroad Commission of Texas potential test, if the well is completed as a well capable of producing oil or gas. The permitted time between wells shall be cumulative so that if a well is commenced prior to the date it is required to be commenced, the number of days prior to the date on which the well should have been commenced shall be added to the time permitted for the next well.

(c) Following the expiration of the primary term of this lease or upon the expiration of any extension or renewal of the primary term, whichever occurs last, Lessee shall release all rights lying one hundred feet (100') below the stratigraphic equivalent of the base of the deepest formation drilled; provided, however, if Lessee is then engaged in operations on the Land or on lands pooled therewith, this lease shall remain in full force and effect as to all depths so long as no more than ninety (90) days elapse between said operations.

7. Pooling. Lessee shall have the continuing and recurring right to pool all, but not less than all, of the Land with other lands or leases in the vicinity to form a pooled unit for the production of oil and gas or either of them. Units pooled for oil shall not exceed 40 acres, plus a tolerance of 10%, and units pooled for gas shall not exceed 320 acres, plus a tolerance of 10%. For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate governmental authority, or if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per

barrel, based on 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment and "horizontal completion" means a well in which the horizontal component of the gross interval in the reservoir exceeds the vertical component thereof. Lessee shall file for record, in the Real Property Records where the Land is located, an instrument describing and designating the pooled acreage and leases and depth limitations, if any, for the pooled unit, and upon recordation, the unit shall become effective as to all parties hereto. Lessee may at its election exercise its pooling option before or after commencing operations on the pooled unit. In the event of operations on or production of oil or gas from any part of a pooled unit which includes the Land covered by this Lease, except for the payment of royalties, the operations or production shall be considered as operations on or production of oil or gas from the Land covered by this Lease, whether or not the well is located on the land covered by this Lease. In the event Lessee should exercise its option to pool or unitize the Land with other lands or leases as herein provided, this Lease shall continue in force and effect after the Primary Term in accordance with the terms of this Lease. There shall be allocated to the Land included in the unit that prorated portion of the oil and gas, or either of them, produced from the pooled unit which the total number of net mineral acres of the Land covered by this Lease and included in the unit bears to the total number of net mineral acres included in the unit. Royalties shall be computed on the portion of production sold by Lessee and allocated to the Land covered by this Lease and included in the unit just as though the production was from the Land. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder. Any unit formed may be amended or revised by Lessee by the addition of other leases and/or the expansion or contraction or both, before or after commencement of production, provided such revised unit complies with the provisions of this Lease, the proportion of unit production on which royalties are payable hereunder shall be adjusted accordingly effective as of the effective date of the written declaration of revision filed of record by Lessee. If this lease now or hereafter covers separate tracts, no pooling or unitization of royalty interest as between any such separate tracts is intended or shall be implied or result merely from the inclusion of such separate tracts within this Lease but Lessee shall nevertheless have the right to pool as provided above with consequent allocation of production as above provided. As used in this paragraph, the words "separate tract" mean any tract with royalty ownership differing, now or hereafter, either as to parties or amounts, from that as to any other part of the Land.

8. No Surface Operations. It is hereby agreed and understood that there shall be no drilling activities or other oil and gas operations of any kind on the surface of the Land without the prior written permission from the surface owner of the applicable portion of the Land. Notwithstanding the foregoing, this waiver of surface shall not be construed as a waiver of the rights of Lessee to utilize the subsurface of the Land under this lease, and Lessee shall have the right to exploit, explore for, develop and produce oil, gas and other covered minerals under this lease from wells from surface locations off the Land, including, but not limited to, directional or horizontal drilling activity which comes at least 300 feet under the surface of the Land. This drilling surface waiver does not apply to any surface rights associated with instruments other than this Lease.

9. **Assignments.** Lessor is granting rights to Lessee that Lessor would not grant to others. Therefore, prior written approval of Lessor is required for any transfer or assignment of this Lease by Lessee; provided that, without the consent of Lessor, Lessee may (i) transfer or assign this Lease as long as such transfer or assignment does not result in Lessee owning less than an undivided 35% interest in this Lease, or (ii) in the case of a corporate merger, consolidation or reorganization, or (iii) in the case of a sale of all or substantially all of the assets of Lessee or a widespread sale of assets of Lessee which includes Lessee's interest in this Lease. When Lessor's consent is required, Lessor's prior written approval shall not be unreasonably withheld. No change or division in ownership of the land, rentals or royalties however accomplished shall operate to enlarge the obligations or diminish the rights of Lessee; and no such change in ownership shall be binding on Lessee nor impair the effectiveness of any payments made hereunder until Lessee shall have been furnished, thirty (30) days before payment is due, a certified copy of the recorded instrument evidencing any transfer, inheritance, sale or other change in ownership.

10. **Force Majeure.** Should Lessee be prevented by reason of Force Majeure from complying with any express or implied covenant of this lease (other than a requirement to pay money), from conducting drilling or reworking operations on the Land or on lands pooled therewith, or from producing oil or gas, then while so prevented, that covenant will be suspended; Lessee will not be liable for damages for failure to comply therewith; this lease will be extended so long as Lessee is prevented from conducting drilling or reworking operations on or from producing oil or gas from the Land or lands pooled therewith as a result of a Force Majeure event; and the time while Lessee is so prevented will not be counted against Lessee. "Force Majeure" means any Act of God; any federal or state law; any rule or regulation of governmental authority; scarcity or delay in obtaining materials, equipment, or labor; delays in obtaining permits not caused by the negligent filings of the Lessor; or other causes beyond the control of Lessee (other than financial reasons). Force Majeure shall extend this lease for a reasonable period of time beyond the end of the actual Force Majeure event, in order for Lessee to prepare for and to proceed with conducting the desired operations on or from producing oil or gas from the Land. Lessee shall take all reasonable actions to remove or end any cause of force majeure as soon as reasonably possible. In no event shall this Lease be perpetuated by an event of force majeure for a period of more than two (2) consecutive years or four (4) years of cumulative time. No obligation of Lessee to pay money that has accrued and was due before the Force Majeure event occurred under this lease will be excused or delayed by reason of such Force Majeure event.

11. **Warranty and Proportionate Reduction.** If Lessor owns an interest in the Land less than the entire fee simple estate, then the royalties (including shut-in royalties) payable hereunder will be reduced proportionately. All royalty interest covered by this lease (whether or not owned by Lessor) shall be paid out of the royalty herein provided. Lessee, at its option, may discharge any tax, mortgage, or other lien or interest and other charges on the Land, and in the event Lessee does so, Lessee will have the option of applying the royalties accruing to Lessor toward payment of same and Lessee shall be subrogated to the rights of the holder thereof. Lessor makes no warranty of any kind with respect to title to the surface or mineral estate in the Land or any portion of or interest therein. All warranties that might arise by common law or by statute, including but not limited to Section 5.023 of the Texas Property Code (or its successor),

are excluded. By acceptance of this Lease, Lessee acknowledges that it has been given full opportunity to investigate and has conducted sufficient investigation to satisfy itself as to the title to the Land and the mineral interests therein. Lessee assumes all risk of title failures.

12. **Curing Defaults.** Should Lessee at any time fail to comply with its obligations hereunder regarding construction, maintenance, or repair within thirty (30) days after receipt of written notice from Lessor, Lessor shall have the right to do or have done whatever is necessary to fulfill the obligations to its satisfaction, and Lessee shall be liable to Lessor for the reasonable and necessary expenses thus incurred by Lessor, to be paid within thirty (30) days after Lessor shall have furnished Lessee an itemized written statement of the expenses.

13. **Notices.** All notices shall be deemed given and reports shall be deemed delivered if sent by certified letter, properly addressed and deposited in the United States mail, postage prepaid, to Lessor and Lessee at the addresses shown above, or if by courier or by Federal Express next business day delivery, upon receipt.

14. **Environmental Compliance.** Lessee shall use the highest degree of care and all reasonable safeguards to prevent contamination or pollution of any environmental medium, including soil, surface waters, groundwater, sediments, and surface or subsurface strata, ambient air or any other environmental medium in, on, or under, the Land or lands pooled therewith, by any waste, pollutant, or contaminant. Lessee shall not bring or permit to remain on Said Lands or lands pooled therewith any asbestos containing materials, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances (as the term "Hazardous Substance" is defined in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S. C. Sections 9601, et seq.) or toxic substances under any federal, state or local law or regulation ("Hazardous Materials"), except ordinary products commonly used in connection with oil and gas exploration and development operations and stored in the usual manner and quantities. LESSEE'S VIOLATION OF THE FOREGOING PROHIBITION SHALL CONSTITUTE A MATERIAL BREACH AND DEFAULT HEREUNDER AND LESSEE SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND LESSOR, ITS AGENTS, EMPLOYEES, TENANTS, GUESTS, INVITEES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY CLAIMS, DAMAGES, JUDGMENTS, PENALTIES, LIABILITIES, AND COSTS (INCLUDING REASONABLE ATTORNEYS FEES AND COURT COSTS) CAUSED BY OR ARISING OUT OF (1) A VIOLATION OF THE FOREGOING PROHIBITION OR (2) THE PRESENCE, RELEASE OR DISPOSAL OF ANY HAZARDOUS MATERIALS ON, UNDER OR ABOUT SAID LANDS OR LANDS POOLED THEREWITH CAUSED BY LESSEE. LESSEE SHALL CLEAN UP, REMOVE, REMEDY, AND REPAIR ANY SOIL OR GROUND WATER CONTAMINATION AND DAMAGE CAUSED BY THE PRESENCE OR RELEASE OF ANY HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT SAID LANDS OR LANDS POOLED THEREWITH CAUSED BY LESSEE IN CONFORMANCE WITH THE REQUIREMENTS OF APPLICABLE LAW. THIS INDEMNIFICATION AND ASSUMPTION SHALL APPLY, BUT IS NOT LIMITED TO, LIABILITY FOR RESPONSE ACTIONS UNDERTAKEN PURSUANT TO CERCLA OR ANY OTHER ENVIRONMENTAL LAW OR REGULATION. LESSEE SHALL IMMEDIATELY GIVE LESSOR WRITTEN NOTICE OF ANY BREACH OR SUSPECTED BREACH OF THIS

PARAGRAPH, UPON LEARNING OF THE PRESENCE OF ANY HAZARDOUS MATERIALS, OR UPON RECEIVING A NOTICE PERTAINING TO HAZARDOUS MATERIALS WHICH MAY AFFECT SAID LANDS OR LANDS POOLED THEREWITH. THE OBLIGATIONS OF LESSEE HEREUNDER SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION FOR ANY REASON, OF THIS LEASE FOR A PERIOD OF FOUR (4) YEARS.

15. Indemnity and Insurance.

(a) LESSEE AGREES TO INDEMNIFY AND HOLD HARMLESS LESSOR, AND LESSOR'S REPRESENTATIVES, SUCCESSORS, AND ASSIGNS AGAINST ALL EXPENSES, CLAIMS, DEMANDS, LIABILITIES, DAMAGES, AND CAUSES OF ACTION OF ANY NATURE FOR INJURY TO OR DEATH OF PERSONS AND LOSS OR DAMAGE TO PROPERTY, INCLUDING, WITHOUT LIMITATION, ATTORNEY FEES, EXPERT FEES, AND COURT COSTS, CAUSED BY LESSEE'S OPERATIONS ON THE LAND OR LESSEE'S MARKETING OF PRODUCTION FROM THE LAND OR ANY VIOLATION OF ANY ENVIRONMENTAL REQUIREMENTS BY LESSEE. AS USED IN THIS PARAGRAPH, THE TERM "LESSEE" INCLUDES LESSEE, ITS AGENTS, EMPLOYEES, SERVANTS, CONTRACTORS, AND ANY OTHER PERSON ACTING UNDER ITS DIRECTION AND CONTROL, AND ITS INDEPENDENT CONTRACTORS. LESSEE'S INDEMNITY OBLIGATIONS SURVIVE THE TERMINATION OF THIS LEASE.

(b) At all times while this Lease is in force, Lessee shall acquire and maintain insurance covering all of its operations on the Land, including any work performed on its behalf by contractors, subcontractors, and others. The policies shall include coverage for comprehensive general liability, for bodily injury and property damage, blowout and loss of well coverage, and coverage for any damage to the environment, including coverage for the cost of clean up and surface remediation. The coverage shall be in the minimum amount of \$5,000,000. If Lessee conducts actual physical operations on the Land, upon request, Lessee shall furnish a certificate from the issuing insurance company or companies evidencing the coverage.

16. Dispute Resolution. In the event of a dispute under this Lease, the parties agree to attempt to resolve the dispute through good faith mediation to be held in Tarrant County, Texas.

17. Offsite Operations. As a result of land development in the vicinity of the lease premises, governmental rules or ordinances regarding well sites, and/or surface restrictions as may be set forth in this lease and/or other leases in the vicinity, surface locations for well sites in the vicinity may be limited and Lessee may encounter difficulty securing surface location(s) for drilling, reworking or other operations. Therefore, since drilling, reworking or other operations are either restricted or not allowed on the lease premises or other leases in the vicinity, it is agreed that any such operations conducted at a surface location off of the lease premises or off of lands with which the lease premises are pooled in accordance with this lease, provided that such operations are associated with a directional well for the purpose of drilling, reworking, producing or other operations under the lease premises or lands pooled therewith, shall for purposes of this

lease be deemed operations conducted on the lease premises. Nothing contained in this paragraph is intended to modify any surface restrictions or pooling provisions or restrictions contained in this lease, except as expressly stated. Notwithstanding anything to the contrary or apparently to the contrary in this Lease, no well will be drilled closer to the boundary line of the Land than the location (as of the date hereof) of the proposed well that has been permitted under Railroad Commission of Texas Permit No. 679777, API 42-439-34282, and shown on Application dated March 24, 2009 and filed by Lessor on the land known as Pappy Elkins Lake.

18. **Venue and Legal Fees.** Venue for any dispute arising under this Lease shall lie in Tarrant County, Texas, where all obligations under this Lease are performable. At any time that any obligation of the Lessee to make a payment shall not be complied with in accordance with the terms of the Lease, it is agreed and understood that Lessee will pay to Lessor interest thereon at the statutory rate. In addition, in the event of the breach of any provision of the Lease, Lessee shall pay to Lessor all costs and expenses reasonably incurred including reasonable attorney's fees and costs of court incurred by Lessor for the enforcement of the provisions of this Lease. It is agreed and understood that time is of the essence in the performing of each responsibility under the terms of this Lease. Likewise, in the event of the breach of any provision of the Lease, Lessor shall pay to Lessee all costs and expenses reasonably incurred including reasonable attorney's fees and costs of court incurred by Lessee for the enforcement of the provisions of this Lease. It is agreed and understood that time is of the essence in the performing of each responsibility under the terms of this Lease

19. **Audit.** Lessee shall keep complete and accurate records of all its operations relating to or affecting the Land, and the results thereof, including but not limited to: all geophysical, geological, geochemical and paleontological data and interpretations or analyses thereof; all land surveys, title opinions and title curative material; all drilling, coring, logging, testing and completion records; all production records showing the total gross production, the quantities saved, sold and used, the disposition thereof, and the sales prices or values thereof; all production sales contracts; and such other records and as may be proper for the settlement of accounts between Lessor and Lessee or to determine the respective rights and obligations of said parties hereunder. During the primary term of this Lease and for as long as oil and gas is produced therefrom, and for a period of one (1) year thereafter, Lessee shall make all of such records and data available to Lessor or Lessor's designee for examination and copying in Lessee's offices at all reasonable times, as well as all other records, reports, notes, charts, graphs, maps, contracts, documents, papers, and other material in the possession of or under the control of the Lessee and pertaining to the Land.

20. **Division Orders.** It is agreed that neither the Lease nor any of its terms or provisions shall be altered, amended, extended, or ratified by any division order or transfer order executed by Lessor, Lessor's successors, agents, or assigns. If Lessee shall require the execution of a division order for payment of royalty payable under the Lease, then the only form of division order permitted for Lessee's use shall be such form promulgated by the State of Texas and set forth in Section 91.402(d) of the Texas Natural Resources Code as amended from time to time. Any amendment, alteration, extension or ratification of this lease, or of any term or provision of this lease, shall be made only by an instrument clearly denominating its purpose and effect, describing the specific terms or provisions affected and the proposed change or

modification hereof, and executed by the party against whom any such amendment, alteration, extension or ratification is sought to be enforced. Any purported amendment, alteration, extension or ratification not so drafted shall be of no force or effect.

21. **Noise Suppression.** Noise levels associated with Lessee's operations related to the drilling, completion and reworking of wells off the Land shall comply with the City of Dalworthington Gardens , Texas Oil and Gas Drilling ordinance.

22. **Miscellaneous Provisions.**

(a) In the event this Lease expires for any reason as to all or any part of the Land, Lessee shall promptly furnish Lessor with a written, recordable release covering all of the Land or that portion of the Land to be released.

(b) Nothing in this Lease negates the usual implied covenants imposed upon Lessee under applicable law.

(c) Lessee will conduct all operations hereunder in compliance with the rules of the Railroad Commission of Texas and federal and state environmental laws and regulations and municipal ordinances, if applicable.

(d) The term "production" means production in paying quantities. No obligation of Lessee to pay money under this Lease will be excused or delayed by reason of Force Majeure.

(e) The execution or ratification by Lessor of any division order, gas contract, or any other document will not alter any provision of this Lease unless the intent to do so is expressly stated in the document.

(f) Paragraph headings are used in this Lease for convenience only and are not to be considered in the interpretation or construction of this Lease.

(g) Lessee may at any time, by executing and delivering to Lessor and placing of record a release or release covering any portion of the Land, be relieved of all obligations of this Lease as to the portion of the Land so surrendered.

(h) Lessor and Lessee agree that a memorandum of this Lease shall be recorded in the Official Public Records of Tarrant County, Texas, to inform the public of the existence of this Lease, and the memorandum shall be limited to information concerning the parties hereto, the Land, and the term and notice provisions of the Lease. Any such memorandum shall not in any way modify any of the terms, conditions and provisions of this Lease.

(i) This Lease is binding upon and for the benefit of Lessor, Lessee, and their respective heirs, personal representatives, successors, and assigns.

(j) This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(k) "The rights of Lessor under this Lease shall be in addition to, and not in lieu of, all rights Lessor may have as to payment of royalty under Texas law, including, without limitation, V.T.C.A. Natural Resources Code §§ 91.401 through 91.405."

Executed on the date first above written.

LESSOR:

**Arlington Cooperative Montessori School, Inc.
d/b/a The Montessori Academy**

By: [Signature]
Name: Kimberly A. White
Title: TMA Board President

LESSEE:

XTO Energy Inc.

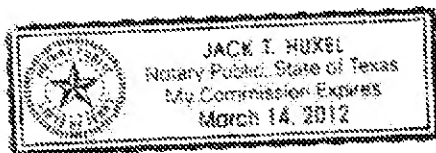
54 By: [Signature]
Name: _____
Title: Edwin S. Ryan, Sr. VP-Land Administration

THE STATE OF TEXAS

COUNTY OF TARRANT

This instrument was acknowledged before me on September 11, 2009, by Kimberly A. White, TMA Board President of Arlington Cooperative Montessori School, Inc., a Texas non-profit corporation, on behalf of said corporation.

[Signature]
Notary Public, State of Texas



THE STATE OF TEXAS

COUNTY OF TARRANT

This instrument was acknowledged before me on September 8, 2009, by Elaine L. Rogers, Jr. as Sr. VP and Adv. of **XTO Energy Inc., a Delaware corporation**, on behalf of said corporation.

Elizabeth L. Rogers
Notary Public, State of Texas

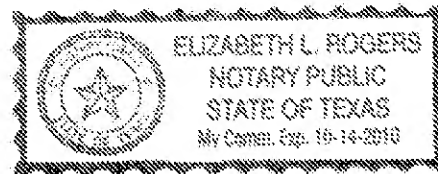


EXHIBIT "A"

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL, GAS AND MINERAL LEASE DATED SEPTEMBER 4, 2009, BETWEEN ARLINGTON COOPERATIVE MONTESSORI SCHOOL, INC. d/b/a THE MONTESSORI ACADEMY AS LESSOR, AND XTO ENERGY INC., AS LESSEE, CONVERING 10.286 ACRES OF LAND, MORE OR LESS, OUT OF THE L. RANDALL SURVEY, A-1311, IN TARRANT COUNTY, TEXAS.

LEGAL DESCRIPTION

Being 10.286 acres of land, more or less, situated in the Town of Dalworthington Gardens, Tarrant County, Texas and being a portion of Lots 1 and 2, Block 1, Dalworthington Gardens Addition as recorded in Volume 388-A, Page 105, and a portion of Lot 3A, Block 1, Dalworthington Gardens Addition as recorded in Volume 388-216, Page 21, Plat Records, Tarrant County, Texas and being more particularly described in that certain General Warranty Deed (Cash) dated May 8th, 1997 from Equitable Investments, Inc., a Texas corporation, acting herein by and through its duly authorized officer to Arlington Cooperative Montessori School, Inc., d/b/a The Montessori Academy recorded in Volume 12761, Page 180, Deed Records, Tarrant County, Texas.